IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 24511 of 2007(R)

PETITIONER:

BAIZIL K.VARGHESE,S/O.VARGHESE,
WARD NO.6/384,BLAYIL HOUSE,CHOTTANIKKARA
ERNAKULAM,KERALA.

BY ADV. SRI.SHAJI N.A.
SRI.T.X.SHAM JOSEPH

RESPONDENTS:
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1. SECRETARY,CHOTTANIKKARA GRAMA PANCHAYATH
CHOTTANIKKARA,ERNAKULAM,682 312.

2. MOHANAN,KUROOR HOUSE,CHOTTANIKKARA,
ERNAKULAM - 682 312.

3. STATE OF KERALA REPRESENTED BY SECRETARY
TO GOVERNMENT DEPARTMENT OF LOCAL SELF
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

R3 BY SR. GOVERNMENT PLEADER (SHRI K. J. MOHAMMED ANZAR)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 24511 OF 2007 R

Dated this the 13th August, 2007

JUDGMENT

Prayer in the Writ Petition is to direct the first respondent to consider and dispose of Ext.P1. By Ext.P1, petitioner seeks invocation of powers under Section 238 of the Kerala Panchayat Raj Act. Learned Government Pleader points out that under Section 238 of the Act, the power cannot be exercised by the Secretary and the power is to be exercised by the Committee and the matter is covered by the decision in Thankamma v. Ezhumattur Grama Panchayat (2001 (2) KLT 596). In the light of this, it may not be possible for me to direct consideration of Ext.P1 by the Secretary. The Panchayat as such is not made a party. In such circumstances, the prayer sought for, cannot be granted. Therefore, the Writ Petition is dismissed without prejudice to the right of the petitioner to move the Committee of the Panchayat, if he is so advised, under Section 238 of the Act.

K. M. JOSEPH, JUDGE

kbk.